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as true copies of the original of the material involved.

[60 FR 44277, Aug. 25, 1995; 60 FR 61290, Nov. 29, 1995]

§ 49.3 Examination of the material.

Documentary material, answers to interrogatories, or transcripts of oral testimony produced pursuant to the Act, while in the custody of the custodian, shall be for the official use of officers, employees, and agents of the Department of Justice in accordance with the Act. Upon reasonable notice to the custodian—

(a) Such documentary material or answers to interrogatories shall be made available for examination by the person who produced such documentary material or answers to interrogatories, or by any duly authorized representative of such person; and

(b) Such transcripts of oral testimony shall be made available for examination by the person who produced such testimony, or by such person's counsel, during regular office hours established for the Department of Justice. Examination of such documentary material, answers to interrogatories, or transcripts of oral testimony at other times may be authorized by the Assistant Attorney General or the custodian.

[60 FR 44277, Aug. 25, 1995; 60 FR 61290, Nov. 29, 1995]

§ 49.4 Deputy custodians.

Deputy custodians may perform such of the duties assigned to the custodian as may be authorized or required by the Assistant Attorney General.

PART 50—STATEMENTS OF POLICY

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- 50.22 Young American Medals Program.
- 50.23 Policy against entering into final settlement agreements or consent decree that are subject to confidentiality provisions and against seeking or concurring in the sealing of such documents.
- 50.24 Annuity broker minimum qualifications.
- 50.25 Assumption of concurrent Federal criminal jurisdiction in certain areas of Indian country.
- 50.26 Limitation on issuance of guidance documents.
- 50.27 Processes and procedures for issuance and use of guidance documents.
- 50.28 Prohibition on settlement payments to non-governmental third parties.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 1162; 28 U.S.C. 509, 510, 516, and 519; 42 U.S.C. 1921 *et seq.*, 1973c; and Pub. L. 107–273, 116 Stat. 1758, 1824.

§ 50.2 Release of information by personnel of the Department of Justice relating to criminal and civil proceedings.

(a) *General.* (1) The availability to news media of information in criminal and civil cases is a matter which has become increasingly a subject of concern in the administration of justice.

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The purpose of this statement is to formulate specific guidelines for the release of such information by personnel of the Department of Justice.

(2) While the release of information for the purpose of influencing a trial is, of course, always improper, there are valid reasons for making available to the public information about the administration of the law. The task of striking a fair balance between the protection of individuals accused of crime or involved in civil proceedings with the Government and public understandings of the problems of controlling crime and administering government depends largely on the exercise of sound judgment by those responsible for administering the law and by representatives of the press and other media.

(3) Inasmuch as the Department of Justice has generally fulfilled its responsibilities with awareness and understanding of the competing needs in this area, this statement, to a considerable extent, reflects and formalizes the standards to which representatives of the Department have adhered in the past. Nonetheless, it will be helpful in ensuring uniformity of practice to set forth the following guidelines for all personnel of the Department of Justice.

(4) Because of the difficulty and importance of the questions they raise, it is felt that some portions of the matters covered by this statement, such as the authorization to make available Federal conviction records and a description of items seized at the time of arrest, should be the subject of continuing review and consideration by the Department on the basis of experience and suggestions from those within and outside the Department.

(b) *Guidelines to criminal actions.* (1) These guidelines shall apply to the release of information to news media from the time a person is the subject of a criminal investigation until any proceeding resulting from such an investigation has been terminated by trial or otherwise.

(2) At no time shall personnel of the Department of Justice furnish any statement or information for the purpose of influencing the outcome of a defendant's trial, nor shall personnel of

the Department furnish any statement or information, which could reasonably be expected to be disseminated by means of public communication, if such a statement or information may reasonably be expected to influence the outcome of a pending or future trial.

(3) Personnel of the Department of Justice, subject to specific limitations imposed by law or court rule or order, may make public the following information:

(i) The defendant's name, age, residence, employment, marital status, and similar background information.

(ii) The substance or text of the charge, such as a complaint, indictment, or information.

(iii) The identity of the investigating and/or arresting agency and the length or scope of an investigation.

(iv) The circumstances immediately surrounding an arrest, including the time and place of arrest, resistance, pursuit, possession and use of weapons, and a description of physical items seized at the time of arrest.

Disclosures should include only incontrovertible, factual matters, and should not include subjective observations. In addition, where background information or information relating to the circumstances of an arrest or investigation would be highly prejudicial or where the release thereof would serve no law enforcement function, such information should not be made public.

(4) Personnel of the Department shall not disseminate any information concerning a defendant's prior criminal record.

(5) Because of the particular danger of prejudice resulting from statements in the period approaching and during trial, they ought strenuously to be avoided during that period. Any such statement or release shall be made only on the infrequent occasion when circumstances absolutely demand a disclosure of information and shall include only information which is clearly not prejudicial.

(6) The release of certain types of information generally tends to create dangers of prejudice without serving a significant law enforcement function. Therefore, personnel of the Department

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should refrain from making available the following:

(i) Observations about a defendant's character.

(ii) Statements, admissions, confessions, or alibis attributable to a defendant, or the refusal or failure of the accused to make a statement.

(iii) Reference to investigative procedures such as fingerprints, polygraph examinations, ballistic tests, or laboratory tests, or to the refusal by the defendant to submit to such tests or examinations.

(iv) Statements concerning the identity, testimony, or credibility of prospective witnesses.

(v) Statements concerning evidence or argument in the case, whether or not it is anticipated that such evidence or argument will be used at trial.

(vi) Any opinion as to the accused's guilt, or the possibility of a plea of guilty to the offense charged, or the possibility of a plea to a lesser offense.

(7) Personnel of the Department of Justice should take no action to encourage or assist news media in photographing or televising a defendant or accused person being held or transported in Federal custody. Departmental representatives should not make available photographs of a defendant unless a law enforcement function is served thereby.

(8) This statement of policy is not intended to restrict the release of information concerning a defendant who is a fugitive from justice.

(9) Since the purpose of this statement is to set forth generally applicable guidelines, there will, of course, be situations in which it will limit the release of information which would not be prejudicial under the particular circumstances. If a representative of the Department believes that in the interest of the fair administration of justice and the law enforcement process information beyond these guidelines should be released, in a particular case, he shall request the permission of the Attorney General or the Deputy Attorney General to do so.

(c) *Guidelines to civil actions.* Personnel of the Department of Justice associated with a civil action shall not during its investigation or litigation make or participate in making an

extrajudicial statement, other than a quotation from or reference to public records, which a reasonable person would expect to be disseminated by means of public communication if there is a reasonable likelihood that such dissemination will interfere with a fair trial and which relates to:

(1) Evidence regarding the occurrence or transaction involved.

(2) The character, credibility, or criminal records of a party, witness, or prospective witness.

(3) The performance or results of any examinations or tests or the refusal or failure of a party to submit to such.

(4) An opinion as to the merits of the claims or defenses of a party, except as required by law or administrative rule.

(5) Any other matter reasonably likely to interfere with a fair trial of the action.

[Order No. 469-71, 36 FR 21028, Nov. 3, 1971, as amended by Order No. 602-75, 40 FR 22119, May 20, 1975]

§ 50.3 Guidelines for the enforcement of title VI, Civil Rights Act of 1964.

(a) Where the heads of agencies having responsibilities under title VI of the Civil Rights Act of 1964 conclude there is noncompliance with regulations issued under that title, several alternative courses of action are open. In each case, the objective should be to secure prompt and full compliance so that needed Federal assistance may commence or continue.

(b) Primary responsibility for prompt and vigorous enforcement of title VI rests with the head of each department and agency administering programs of Federal financial assistance. Title VI itself and relevant Presidential directives preserve in each agency the authority and the duty to select, from among the available sanctions, the methods best designed to secure compliance in individual cases. The decision to terminate or refuse assistance is to be made by the agency head or his designated representative.

(c) This statement is intended to provide procedural guidance to the responsible department and agency officials in exercising their statutory discretion and in selecting, for each noncompliance situation, a course of action that fully conforms to the letter and spirit